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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO.            |
|--|-------------|----------------------|---------------------------------|-----------------------------|
| 10/509,361   | 07/17/2007  | Jeffrey W. Kadyk     | 27726/96969                     | 3990                        |
| 23644 7590 06/15/2009<br>BARNES & THORNBURG LLP<br>P.O. BOX 2786<br>CHICAGO, IL 60690-2786 |             |                      | EXAMINER<br>TAPOLCAI, WILLIAM E |                             |
|  |             |                      | ART UNIT<br>3744                | PAPER NUMBER                |
|  |             |                      | NOTIFICATION DATE<br>06/15/2009 | DELIVERY MODE<br>ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

|                              |  |  |  |
|------------------------------|--|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/509,361   | <b>Applicant(s)</b><br>KADYK, JEFFREY W. |  |
|                              | <b>Examiner</b><br>William E. Tapolcai | <b>Art Unit</b><br>3744                  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6-11, 14-21, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,058,721 to Midden et al in view of U.S. Patent No. 4,696,166 to Bukoschek et al. Midden et al discloses the claimed beverage chiller with a chilling unit 46 that extends into the hopper 42 for chilling the beverage. However, Midden et al does not disclose the reversible mixing member or the sensor for sensing an occurrence of a rotation reversal condition. Bukoschek et al teaches a mixer having a reversible mixing member 8 and a sensor for sensing an occurrence of a rotation reversal condition. See especially Fig. 4 and column 5, lines 36-56. Thus, it would be obvious to modify Midden et al so that the mixing member is reversible, in view of Bukoschek et al, to yield the predictable result that the beverage is thoroughly mixed before being dispensed. The type of motor used for the mixer unit is considered to be a matter of obvious choice to one of ordinary skill in the art. D.C. motors per se are well known, and no criticality or unexpected results are seen or have been disclosed for the use of a D.C. motor in Midden et al.

3. Claims 4, 12, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midden et al in view of Bukoschek et al as applied to claim 1 above, and further in view of U.S. Patent No. 4,610,399 to Weichenrieder et al. Midden et al as modified above by Bukoschek et al discloses the claimed invention except for the torque sensor.

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Weichenrieder et al teaches a reversible mixing unit with a torque sensor for reversing the direction of rotation of the mixer. See especially column 8, lines 57-61. Thus, it would be obvious to provide Midden et al with a torque sensor for the mixing unit, in view of Weichenrieder et al, to yield the predictable result of controlling when the mixing unit is reversed to prevent too much stress being placed on the mixer unit.

4. Claims 5, 13, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midden et al in view of Bukoschek et al as applied to claim 1 above, and further in view of U.S. Patent No. 4,081,346 to Fogo et al. Midden et al as modified above by Bukoschek et al discloses the claimed invention except for the timer for controlling the duration of rotation in one direction or the other. Fogo et al teaches that it is old to use a timer to control the direction of rotation of a reversible motor 144. See especially column 9, lines 12-21. Thus, it would be obvious to incorporate a timer into Midden et al, in view of Fogo et al, to yield the predictable result of limiting the duration in which the mixer unit is rotated in any one direction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (571) 272-4814. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William E. Tapolcai/  
Primary Examiner, Art Unit 3744

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June 2, 2009